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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/670,849

09/25/2003

Rahul L. Shah

5681-69900

1386

58467

7590

04/13/2009

MHKKG/SUN

P.O. BOX 398

AUSTIN, TX 78767

EXAMINER

JOO, JOSHUA

ART UNIT

PAPER NUMBER

2454

MAIL DATE

DELIVERY MODE

04/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/670,849	Applicant(s) SHAH, RAHUL L.	
	Examiner JOSHUA JOO	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-18, 20-28, 30-37, 39-47 and 49-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18, 20-28, 30-37, 39-47 and 49-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

This Office action is in response to Applicant's communication filed on 01/29/2009.

Claims 1-9, 11-18, 20-28, 30-37, 39-47, 49-56 are pending for examination.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/29/2009 has been entered.

Response to Arguments

Applicant's arguments with respect to claims 1-9, 11-18, 20-28, 30-37, 39-47, 49-56 have been considered but are moot in view of the new ground(s) of rejection. New ground(s) of rejection are necessitated by Applicant's amendment.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or

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claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 8-9, 11, 17-18, 20, 27-28, 30, 37, 39, 47, 49, and 56 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 12-15, 26-29, 40-42 of copending Application No. 10/670550, in view of Wick, US Publication #2004/0093387 (Wick hereinafter).

Instant Application Claim 1	Copending application #10/670550 Claim 13
A computer-implemented method, comprising: <u>receiving an instant messaging operation directed to a given user, said given user is not offline;</u> wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger;	<u>receiving an instant messaging operation directed to a given user, wherein said given user is not offline;</u>
in response to receiving said instant messaging operation, <u>determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user; and</u>	<u>determining said presence state of said instant messenger in response to receiving said instant messaging operation; and</u>
in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, <u>performing said instant messaging operation;</u>	<u>selectively processing said instant messaging operation dependent upon said presence state in response to said determining.</u>
wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems.	

Instant Application Claim 30	Copending application #10/670550 Claim 28
A computer-accessible storage medium,	The computer-accessible medium as recited in

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comprising program instructions, wherein the program instructions are computer-executable to:	claim 15, wherein said program instructions are further computer-executable to:
<u>store an instant messaging operation associated with a specific presence state of an instant messenger,</u> wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger;	<u>store an instant messaging operation associated with a given presence state of an instant messenger,</u> wherein said given presence state corresponds to a given user;
<u>detect a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing; and</u>	<u>detect a transition to said given presence state subsequent to said storing; and</u>
<u>perform said instant messaging operation in response to said detecting.</u>	<u>perform said instant messaging operation in response to said detecting.</u>

Although the conflicting claims are not identical, they are not patentably distinct from each other because: Regarding the rejection of claim 1 of the instant application, claims 1 and 13 of the copending application do not disclose the features not underlined above for claim 1. However, Wicks teaches the missing features (Paragraphs 0014; 0039-0041). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender specified events. Claims 20 and 39, which comprise features similar to claim 1, of the instant application are rejected by claims 15, 27, 29 and 41 of the copending application, in view of Wick, for reasons similar to the rejection of claim 1.

Regarding the rejection of claim 30 of the instant application, claims 15 and 28 of the copending application do not disclose the features not underlined above. However, Wicks teaches the missing features (Paragraphs 0014; 0039-0041). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender specified events. Claims 11 and 49, which comprise features similar to claim 30, of the instant

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application are rejected in view of claims 1, 14, 29 and 42 of the copending application, in view of Wick, for reasons similar to the rejection of claim 30.

Furthermore, claims 8, 17, and 27 are rejected as being unpatentable over claims 1, 15 and 29, as the claims from the copending application discloses the features of the claims in the instant application. Claims 9, 18, 28, 37, 47, and 56 are rejected as unpatentable over claims 12, 26, and 40 of the copending application as both the claims from the instant and the copending applications comprise substantially similar features.

Claims 1, 8, 11, 17, 20, 27, 30, 39, and 49 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8-11, 18-21, 28-29, and 30 of copending Application No. 10/670549, in view of Wick.

Instant Application Claim 1	Copending application #10/670549 Claim 9
A computer-implemented method, comprising: <u>receiving an instant messaging operation directed to a given user, said given user is not offline;</u> wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger;	The method as recited in claim 1, further comprising: <u>receiving an instant messaging operation directed to a given user, wherein said given user is not offline;</u>
in response to receiving said instant messaging operation, <u>determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user; and</u>	<u>determining the presence state specific to said instant messenger in response to receiving said instant messaging operation; and</u>
in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, <u>performing said instant messaging operation;</u>	<u>selectively processing said instant messaging operation dependent upon said presence state in response to said determining.</u>

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wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems.	
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Instant Application Claim 30	Copending application #10/670549 Claim 20
A computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:	The computer-accessible medium as recited in claim 15, wherein said program instructions are further computer-executable to:
<u>store an instant messaging operation associated with a specific presence state of an instant messenger,</u> wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger;	<u>store an instant messaging operation associated with a given presence state of an instant messenger,</u> wherein said given presence state corresponds to a <u>given user;</u>
<u>detect a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing; and</u>	<u>detect a transition to said given presence state subsequent to said storing; and</u>
<u>perform said instant messaging operation in response to said detecting.</u>	<u>perform said instant messaging operation in response to said detecting.</u>

Although the conflicting claims are not identical, they are not patentably distinct from each other because: Regarding the rejection of claim 1 of the instant application, claims 1 and 9 of the copending application do not disclose the features not underlined above. However, Wicks teaches the missing features (Paragraphs 0014; 0039-0041). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender specified events. Claims 20 and 39, which comprise features similar to claim 1, of the instant application are rejected by claims 11, 19, 21, and 29 of the copending application, in view of Wick, for reasons similar to the rejection of claim 1.

Regarding the rejection of claim 30 of the instant application, claims 15 and 20 of the copending application do not disclose the features not underlined above. However, Wicks teaches the missing

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features (Paragraphs 0014; 0039-0041). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender specified events. Claims 11 and 49, which comprise features similar to claim 30, of the instant application are rejected in view of claims 1, 10, 21, and 30 of the copending application, in view of Wick, for reasons similar to the rejection of claim 30.

Furthermore, claims 8, 17, and 27 are rejected as being unpatentable over claims 8, 18 and 28, as the claims from the copending application disclose the features of the claims in the instant application. Claims 9, 18, 28, 37, 47, and 56 are rejected unpatentable over claims 1, 11, and 21 of the copending application as the copending application discloses the features of the claims in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-12, 14, 30-31, 33, 49-50, and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Wick.

As per claim 11, Wick teaches the invention as claimed including a computer-implemented method, comprising:

storing an instant messaging operation associated with a specific presence state of an instant messenger, wherein the specific presence state associated with the received instant messaging operation is

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determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

detecting a transition of said current presence state assigned to said instant messenger to said specific presence state subsequent to said storing (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

performing said instant messaging operation in response to said detecting (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said storing, said detecting, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

As per claim 30, Wick teaches the invention as claimed including a computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:

storing an instant messaging operation associated with a specific presence state of an instant messenger, wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

detecting a transition of said current presence state assigned to said instant messenger to said specific presence state subsequent to said storing (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

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performing said instant messaging operation in response to said detecting (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said storing, said detecting, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

As per claim 49, Wick teaches the invention as claimed including a system, comprising:

a memory; and a processor coupled to said memory and configured to execute instructions wherein the instructions are executable to implement an instant messenger (Paragraph 0061. Implement in computer hardware and/or software and computer-readable storage medium);

wherein said instant messenger software module is further configured to:

storing an instant messaging operation associated with a specific presence state of an instant messenger, wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

detecting a transition of said current presence state assigned to said instant messenger to said specific presence state subsequent to said storing (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

performing said instant messaging operation in response to said detecting (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said storing, said detecting, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

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As per claim 12, Wick teaches the invention as recited in claim 11, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM).

As per claim 14, Wick teaches the invention as recited in claim 11, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 31, Wick teaches the invention as recited in claim 30, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM).

As per claim 33, Wick teaches the invention as recited in claim 30, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 50, Wick teaches the invention as recited in claim 49, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM).

As per claim 52, Wick teaches the invention as recited in claim 49, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 15, 17, 32, 34, 36, 51, 53, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick, in view of Horvitz, US Publication #2002/0087649 (Horvitz hereinafter) .

As per claim 13, Wick teaches the invention as recited in claim 12, wherein performing said instant messaging operation comprises initiating said chat operation (Paragraph 0040. Chat invitation, IM). Wick does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Wick's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 15, Wick teaches the invention as recited in claim 14, wherein performing said instant messaging operation comprises initiating said alert operation (Paragraphs 0040; 0042. Notification, alarm). Wick does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Wick's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 17, Wick does not specifically teach invention as recited in claim 11, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 32, Wick teaches the invention as recited in claim 31, wherein performing said instant messaging operation comprises initiating said chat operation (Paragraph 0040. Chat invitation, IM). Wick does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Wick's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 34, Wick teaches the invention as recited in claim 33, wherein performing said instant messaging operation comprises initiating said alert operation (Paragraphs 0040; 0042. Notification, alarm). Wick does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings

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would improve Wick's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 36, Wick does not specifically teach invention as recited in claim 30, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

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As per claim 51, Wick teaches the invention as recited in claim 50, wherein performing said instant messaging operation comprises initiating said chat operation (Paragraph 0040. Chat invitation, IM). Wick does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Wick's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 53, Wick teaches the invention as recited in claim 52, wherein performing said instant messaging operation comprises initiating said alert operation (Paragraphs 0040; 0042. Notification, alarm). Wick does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings

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would improve Wick's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 55, Wick does not specifically teach invention as recited in claim 49, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

Claim 16, 35, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick, in view of Cristofalo et al. US Publication #2002/0152117 (Cristofalo hereinafter).

As per claim 16, Wick does not specifically teach the invention as recited in claim 11, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would provide an improvement to the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

As per claim 35, Wick does not specifically teach the invention as recited in claim 30, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would provide an improvement to the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

As per claim 54, Wick does not specifically teach the invention as recited in claim 49, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would provide an improvement to the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

Claim 18, 37, and 56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick, in view of Horvitz, US Publication #2008/0104517 (Horvitz '517 hereinafter).

As per claim 18, 37, and 56, Wick does not specifically teach the invention as recited in claim 11, 30, and 49, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

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Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to store schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; query said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assign a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user. The motivation for the suggested combination is that Horvitz '517's teachings would improve Wick's teachings by utilizing a user's context settings such as a calendar to further define a preference for communication, which allows for establishment of an optimal communication.

Claims 1-3, 5, 7, 20-22, 24, 26, 39-41, 43, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick, in view of Seshadri et al. US Patent #7,209,916 (Seshadri hereinafter).

As per claim 1, Wick teaches substantially the invention as claimed including a computer-implemented method, comprising:

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receiving an instant messaging operation directed to a given user and wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

in response to receiving said instant messaging operation, determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, performing said instant messaging operation (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

While Wick teaches of sending an instant messaging operation and performing the instant messaging operation at a specified event, Wick does not specifically teach of sending the instant messaging operation wherein said given user is not offline.

Seshadri teaches of receiving messages to a given user, wherein the given user is not offline (col. 4, lines 10-22; col. 5, lines 25-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user as taught by Wick, wherein the given user is not offline as taught by Seshadri. The motivation for the suggested

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combination is that Seshadri's teachings would improve Wick's teachings by enabling actions according various preferences and user states.

As per claim 20, Wick teaches substantially the invention as claimed including a computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:

receiving an instant messaging operation directed to a given user and wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

in response to receiving said instant messaging operation, determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, performing said instant messaging operation (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

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While Wick teaches of sending an instant messaging operation and performing the instant messaging operation at a specified event, Wick does not specifically teach of sending the instant messaging operation wherein said given user is not offline.

Seshadri teaches of receiving messages to a given user, wherein the given user is not offline (col. 4, lines 10-22; col. 5, lines 25-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user as taught by Wick, wherein the given user is not offline as taught by Seshadri. The motivation for the suggested combination is that Seshadri's teachings would improve Wick's teachings by enabling actions according various preferences and user states.

As per claim 39, Wick teaches substantially the invention as claimed including a system, comprising:

a memory; and a processor coupled to said memory and configured to execute instructions, wherein the instructions are executable to implement an instant messenger software module (Paragraph 0061. Implement in computer hardware and/or software.);

wherein said instant messenger software module is further configured to:

receiving an instant messaging operation directed to a given user and wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

in response to receiving said instant messaging operation, determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state

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associated with the received instant messaging operation, wherein said current presence state corresponds to said given user (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, performing said instant messaging operation (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

While Wick teaches of sending an instant messaging operation and performing the instant messaging operation at a specified event, Wick does not specifically teach of sending the instant messaging operation wherein said given user is not offline.

Seshadri teaches of receiving messages to a given user, wherein the given user is not offline (col. 4, lines 10-22; col. 5, lines 25-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user as taught by Wick, wherein the given user is not offline as taught by Seshadri. The motivation for the suggested combination is that Seshadri's teachings would improve Wick's teachings by enabling actions according various preferences and user states.

As per claim 2, Wick teaches the invention as recited in claim 1, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM.).

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As per claim 3, Wick teaches the invention as recited in claim 1, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 5, Wick teaches the method as recited in claim 1, further comprising: in response to determining that said specific presence state of the received instant messaging operation does not match said current presence state assigned to said instant messenger, queuing said instant messaging operation (Paragraph 0041. Pounce is queued pending occurrence of specified event.).

As per claim 7, Wick teaches the method as recited in claim 5, further comprising: subsequent to queuing said instant messaging operation, detecting a transition of said current presence state to said instant messenger to a presence state that matches the specific presence state associated with the instant messaging operation; and performing the queued instant messaging operation in response to detecting said transition (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on. Paragraphs 0039; 0043. Execute pounce at specified event.).

As per claim 21, Wick teaches the invention as recited in claim 20, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM.).

As per claim 22, Wick teaches the invention as recited in claims 20, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 24, Wick teaches the computer-accessible storage medium as recited in claim 20, wherein said program instructions are further computer-executable to: in response to determining that said specific presence state of the received instant messaging operation does not match said current presence

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state assigned to said instant messenger, queuing said instant messaging operation (Paragraph 0041.

Pounce is queued pending occurrence of specified event.).

As per claim 26, Wick teaches the computer-accessible storage medium as recited in claim 24, wherein said program instructions are further computer-executable to: subsequent to queuing said instant messaging operation, detecting a transition of said current presence state to said instant messenger to a presence state that matches the specific presence state associated with the instant messaging operation; and performing the queued instant messaging operation in response to detecting said transition (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on. Paragraphs 0039; 0043. Execute pounce at specified event.).

As per claim 40, Wick teaches the invention as recited in claim 39, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM.).

As per claim 41, Wick teaches the invention as recited in claim 39, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 43, Wick teaches the system as recited in claim 39, wherein said instant messenger software module is further configured to: in response to determining that said specific presence state of the received instant messaging operation does not match said current presence state assigned to said instant messenger, queuing said instant messaging operation (Paragraph 0041. Pounce is queued pending occurrence of specified event.).

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As per claim 45, Wick teaches the system as recited in claim 43, wherein said instant messenger software module is further configured to: subsequent to queuing said instant messaging operation, detecting a transition of said current presence state to said instant messenger to a presence state that matches the specific presence state associated with the instant messaging operation; and performing the queued instant messaging operation in response to detecting said transition (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on. Paragraphs 0039; 0043. Execute pounce at specified event.).

Claim 4, 23, 42, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Cristofalo.

As per claim 4, Wick does not specifically teach the invention as recited in claim 1, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Cristofalo's teachings of providing a poll operation would provide an improvement to the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

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As per claim 23, Wick does not specifically teach the invention as recited in claim 20, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would provide an improvement the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

As per claim, 42, Wick does not specifically teach the invention as recited in claim 39, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would provide an improvement the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraph 0005; 0007).

Claims 6, 25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Beyda, US Publication #2003/0229722 (Beyda hereinafter).

As per claim 6, Wick teach the invention as recited in claim 5, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Chat invitation.). Wick does not specifically teach the method further comprises notifying said second user of said queuing.

Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Beyda's teachings would improve the suggested system by enabling the sender to be informed of the status of sent messages.

As per claim 25, Wick teach the invention as recited in claim 24, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Chat invitation.). Wick does not specifically teach the method further comprises notifying said second user of said queuing.

Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Beyda's teachings would improve the suggested system by enabling the sender to be informed of the status of sent messages.

As per claim 44, Wick teach the invention as recited in claim 43, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Chat invitation.). Wick does not specifically teach the method further comprises notifying said second user of said queuing.

Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Beyda's teachings would improve the suggested system by enabling the sender to be informed of the status of sent messages.

Claims 8, 27, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Horvitz.

As per claims 8, 27, 46, Wick does not specifically teach invention as recited in claims 1, 20, 39, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and

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transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

Claims 9, 28, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Horvitz '517.

As per claim 9, 28, 47, Wick does not specifically teach the invention as recited in claims 1, 20, 39, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that

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corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to store schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; query said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assign a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user. The motivation for the suggested combination is that Horvitz '517's teachings would improve the suggested system by utilizing a user's context settings such as a calendar to further define a preference for communication, which allows for establishment of an optimal communication.

Conclusion

A shortened statutory period for reply to this Office action is set to expire THREE

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MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Thursday 8AM to 5PM and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. J./
Examiner, Art Unit 2454

/Nathan J. Flynn/
Supervisory Patent Examiner, Art Unit 2454